

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re C.J., a Person Coming Under the  
Juvenile Court Law.

ORANGE COUNTY SOCIAL SERVICES  
AGENCY,

Plaintiff and Respondent,

v.

C.J.,

Defendant and Appellant.

G056398

(Super. Ct. No. 17DP1395)

O P I N I O N

Appeal from orders of the Superior Court of Orange County, Sherri L.  
Honer, Judge. Affirmed.

Shobita Misra, under appointment by the Court of Appeal, for Defendant  
and Appellant.

Leon J. Page, County Counsel, Karen L. Christensen and Jeannie Su,  
Deputy County Counsel, for Plaintiff and Respondent.

\*

\*

\*

C.J. (mother) appeals from the juvenile court's order finding it had dependency jurisdiction (Welf. & Inst. Code, § 300, subd. (b); all further statutory references are to this code) to ensure the safety and regular care of her seven-year-old son, C.B.J., after mother suffered two psychiatric episodes requiring extended involuntary hospitalization.<sup>1</sup> Mother also appeals the juvenile court's dispositional order leaving B. at home in father's care and removing B. from her physical custody, albeit with extensive, monitored visitation, while she remained out of the home. As we explain, substantial evidence supports the juvenile court's orders. We therefore affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

In November 2017, police officers responded to mother and father's Huntington Beach apartment after a neighbor reported hearing mother and a child screaming inside, including mother yelling, "You broke my hand" and "You broke my fingers." Upon arriving, an officer heard a child inside screaming "at the top of" his or her lungs, and the officer feared the child was possibly being "actively assaulted." The officer opened the unlocked front door and yelled "Police" several times from the doorway, and spotted mother, who did not seem to notice him for about 30 seconds despite his calls. Mother was shouting incoherently in the living room, pacing, standing up and then kneeling down, and rambling incoherently to B., who crouched below her in his underwear and seemed to be "shaken or scared."

While the officer explained the disturbance call, mother tried to push him from the entryway, which led him to believe she might be covering up an assault; so he blocked the door with his foot. The officers then entered, and B. fled to a bedroom.

---

<sup>1</sup> Because the three family members share the same initials for their first and last names, for clarity and ease of reference we will refer to the child, C.B.J., by his middle initial, B., and to his mother, father, and other relatives (e.g., maternal grandmother) by their relation to B.

Pacing back and forth, mother appeared to look for her child under small 12-inch by 12-inch throw pillows on the couch, repeatedly lifting them and calling the child's name. Moving to the bedroom, where the officers found B. uninjured, mother instructed B., "These are not police officers. Don't talk to them." Though both officers were in uniform, mother did not appear to recognize that they were police officers. The lead officer called child protective services and the Orange County Healthcare Agency's Crisis Assessment Team (CAT) for psychiatric emergencies.

Meanwhile, mother called 911, and requested a police supervisor. When a sergeant responded to the home almost immediately, she declined to speak with him. The sergeant believed mother was having "an episode" of some kind because her reaction to events was not "normal," as she was sweating profusely and acting in an "obsessive compulsive" manner about "things . . . get[ting] dirty."

As the CAT team member assessed mother, she rambled incoherently. When she began to pull away, the CAT officer feared she would flee out the front door, so he placed her on an involuntary hold. (§ 5150.) She was transported in an ambulance to Evaluation Treatment Services in Santa Ana. The CAT officer stated mother had been diagnosed the year before with a Manic Episode Unspecified.

Mother remained hospitalized for two weeks at a residential treatment center, first under section 5150, and then under section 5250 as a danger to others. Her reported symptoms included delusions, an inability to manage extreme emotions, and incoherent, uncooperative, aggressive, screaming behavior. The doctor who evaluated mother in early December observed that she continued to show manic symptoms, pressured speech, flights of ideas, grandiose delusions, and peculiar preoccupations with health issues, including food and nutrition. She showed no insight into her condition and stated she did not need medication. It was determined she lacked capacity to make her medication decisions. Diagnosing mother with bipolar disorder with psychosis, the

doctor concluded it was unlikely she would comply in taking her prescribed medication in an outpatient setting.

Once discharged, mother returned home and discarded her medication, but retrieved it when she learned she would be meeting with a social worker. She refused to share or release to father any information from the hospital. Mother told the social worker she had been discharged on the condition that she take her prescribed medication and see a psychiatrist. Mother orally agreed to do so, but refused to sign the “safety plan” that she, father, and the social worker developed.

Father believed mother’s mental health had begun to decline about a year before; however, a neighbor described it as more like two years. The maternal grandmother had noticed deterioration in her daughter’s mental health over at least the last three years. The CAT team had responded to calls involving mother in October and November 2015 for manic and paranoid behavior, including aggressiveness towards the paternal grandmother, and odd actions like plucking at her own face and shaving her head and eyebrows.

In February 2016, well before her hospitalization in November and early December of 2017, mother physically attacked father while B. was in another room in the house. Trying to take father’s phone from him, she jumped on his back and choked him, leaving scratches the child noticed. When father called the police, mother left the home. She was later arrested for domestic violence. Father reported mother’s mental health condition played a role in the incident, and the responding social worker noted mother seemed to be in constant motion, had rapid speech, and laughed out of context. Mother saw a psychiatrist after the incident, but would not release any information to father.

Father and maternal grandmother expressed deep and conflicted concern for mother; they agreed that she was a loving mother and protective of B. Neither of them had observed her doing anything to harm B., and neither believed she would intentionally do so. But father expressed increasing concern about mother’s ability to care for,

supervise, and meet B.'s needs. He admitted he had "downplay[ed]" mother's condition when the police called him at work during her most recent episode. Father stated when he returned home that day before mother left in the ambulance, that her answers to his questions had been nonresponsive. Recently, father grew troubled over instances where mother did not make sense while conversing, became agitated while stating everyone was out to get her, and engaged in screaming bouts that were not "normal." Maternal grandmother and father had tried many times to get mother to begin mental health treatment to no avail; instead, mother cut off maternal grandmother's contact with B.

Within a week of mother's discharge on December 11, 2017, she assaulted father again. B. was in the living room and did not witness the attack, but could hear his parents arguing in the bedroom. Mother did not want maternal grandmother "watching her and the child while he went to work." Mother jumped on father's back and began hitting him on the head. During the struggle, she ripped his shirt. The CAT team responded and mother was initially placed on a 72-hour hospital hold as a danger to others because she was not taking her medication. The hold was later extended to 14 days.

Mother agreed she would move out of the family home upon her discharge, while father indicated to the social worker that if mother changed her mind, he was prepared to move with the child to a relative's home in Orange County. Mother did not return home after her discharge from the hospital. She failed to obtain psychiatric treatment in the ensuing five months before the jurisdiction hearing. As recounted in the social worker's January 2018 report, mother continued to insist "she does not need mental health treatment since she does not have any mental health issues."

Mother asserted the police officer's report for the November 2017 incident was falsified, as was the doctor's report for her hospitalization after that episode. She denied ever hitting father. She rejected the social worker's recommendations to

participate in counseling, to obtain a psychiatric or psychological evaluation, and to take her prescribed medications.

Mother, who is educated and a former vocational nurse, seemed to change course in February 2018, telling the social worker she would schedule a mental health evaluation through her Kaiser Permanente health plan. She signed a release for the social worker to receive information regarding treatment administered through her plan. Later that month, however, mother reported that the intake therapist would not schedule a psychological assessment for her because mother was not willing to take medication since “there is nothing wrong with her.” The social worker referred mother to the Orange County Health Care Agency, but according to mother, the clinic would not see her because she had private insurance. Based on the Health Care Agency’s recommendation, mother stated she obtained a referral from her primary care doctor for a psychological assessment, but the record indicates she never ultimately saw either a psychiatrist or psychologist.

Instead, in March, mother reported she had tried to see a Kaiser therapist to request an evaluation but, according to mother, the therapist found no need for her to see a psychiatrist based on mother’s self-assessment. A supervising social worker suggested the juvenile court could order an Evidence Code section 730 evaluation with a psychiatrist. Mother initially appeared receptive, but she did not want the psychiatrist to speak to anyone but her, specifically excluding in a voicemail she left with the social worker: father and/or maternal grandmother.

Mother terminated her consent for the social worker to speak with her Kaiser Permanente counselor, a marriage and family therapist. Mother instead requested that the social worker include mother’s account of the counselor’s statements in her reports. Mother reiterated that the counselor found no basis to refer her for a psychiatric evaluation. The counselor noted mother disclosed no difficulties requiring attention,

stating instead that mother claimed “everything’s fine,” so there was nothing for them to work on.

Through April, mother maintained in e-mail communication with the social workers that “I’ve done everything right even with all of the false allegations against me as I could care less what lying [c]ops, lying doctors and a lying mother, husband and neighbor perceived me to be!” She closed an April e-mail with this comment, “I’m totally cool with who I am. So please bring on the psychiatrist as I asked from day one.”

At the jurisdiction and disposition hearing held over several days in May 2018, the juvenile court heard testimony from mother, father, the assigned social worker, and both the police officer and the sergeant who responded to the November incident. Minor’s counsel requested that the court adopt SSA’s recommended case plan, including that mother “cooperate with any psychological evaluation ordered by the court.” Mother objected to a 730 evaluation, insisting as she had before that she had “no problem doing a private psyche evaluation.”

The juvenile court sustained jurisdiction over B. based on mother’s “inability . . . to provide regular care for the child due to the parent’s . . . mental illness.” (§ 300, subd. (b)(1).) The court also found true by the same preponderance of evidence standard the allegations in SSA’s amended petition that mother and father failed or were unable to protect B. adequately from a substantial risk of harm based on mother’s “unresolved mental issues” and the parents’ “history of domestic violence . . . .” The Court dismissed the petition’s substance abuse allegations as a basis for jurisdiction.

After declaring B. a dependent child, the court in its dispositional order removed custody from mother, but directed father’s custody to remain undisturbed. The court ordered SSA to provide enhanced services to mother, including individual therapy addressing domestic violence issues, a psychiatric or psychological examination, and evaluation and monitoring of the necessity of psychotropic medication.

Mother now appeals. Father does not appeal or otherwise challenge the jurisdictional or dispositional orders.

## DISCUSSION

Mother contends the juvenile court erred in assuming jurisdiction over B. and in removing B. from her physical custody in its dispositional order. In a dependency proceeding, the dispositional order is the first appealable order and constitutes the judgment in the case. (*In re S.B.* (2009) 46 Cal.4th 529, 532.) We review mother's challenges to the jurisdictional and dispositional orders in turn.

### A. *Jurisdiction*

#### 1. Governing Law

The purpose of juvenile court jurisdiction under section 300 “is to provide maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited,” (§ 300.2.) Jurisdiction similarly is proper “to ensure the safety, protection, and physical and emotional well-being of children who are *at risk of that harm.*” (*Ibid.*, italics added; see *In re Giovanni F.* (2010) 184 Cal.App.4th 594, 599.)

Section 300, subdivision (b)(1), provides for jurisdiction when “[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child . . . or,” more specifically, based on “the inability of the parent or guardian to provide regular care for the child due to the parent’s or guardian’s mental illness, developmental disability, or substance abuse.” Jurisdiction under this subdivision continues “only so long as is necessary to protect the child from risk of suffering serious physical harm or illness.” (*Ibid.*)

Negligence or intent to harm a child—arising from mental illness or otherwise—is not an element of dependency jurisdiction. Nor is past, current, or ongoing

neglect or injury required, but rather a risk of harm. (*In re I.J.* (2013) 56 Cal.4th 766, 773.) “[S]ection 300 does not require that a child actually be abused or neglected before the juvenile court can assume jurisdiction. The subdivisions at issue here require only a ‘substantial risk’ that the child will be abused or neglected.” (*Ibid.*)

Future abuse or injury need not be inevitable before the juvenile court intervenes to protect the child. (*In re N.M.* (2011) 197 Cal.App.4th 159, 165.) “The court may consider past events in deciding whether a child presently needs the court’s protection.” (*Ibid.*) A parent’s “[p]ast conduct may be probative of current conditions’ if there is reason to believe that the conduct will continue.” (*In re S.O.* (2002) 103 Cal.App.4th 453, 461; accord, *In re Christopher R.* (2014) 225 Cal.App.4th 1210, 1216.)

The juvenile court extends dependency jurisdiction over children, not parents. (*In re Joshua G.* (2005) 129 Cal.App.4th 189, 202.) “[T]he minor is a dependent if the actions of either parent bring her [or him] within one of the statutory definitions of a dependent. [Citations.] This accords with the purpose of a dependency proceeding, which is to protect the child, rather than prosecute the parent.” (*In re Alysha S.* (1996) 51 Cal.App.4th 393, 397.) The proceedings are civil in nature, not punitive. (*In re Joshua G.*, at p. 202.)

A reviewing court may “affirm . . . jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. . . . [T]he reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence.” (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.)

The juvenile court’s jurisdictional finding that a child is a person described by section 300 must be supported by a preponderance of the evidence. (§ 355; *Cynthia D. v. Superior Court* (1993) 5 Cal.4th 242, 248.) The pertinent inquiry on appeal is whether substantial evidence supports the lower court’s conclusion, not whether a

contrary finding might have been made. (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 228.) “““In making this determination, we draw all reasonable inferences from the evidence to support the findings and orders of the dependency court; we review the record in the light most favorable to the court’s determinations; and we note that issues of fact and credibility are the province of the trial court.” [Citation.] “We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the trial court.””” (*In re I.J., supra*, 56 Cal.4th at p. 773.)

## 2. The Evidence Supports the Juvenile Court’s Jurisdictional Finding

Here, substantial evidence supports jurisdiction where mother suffered two serious psychiatric episodes resulting in extended involuntary hospitalization. Upon discharge in each instance, mother failed to take her medication and failed to obtain alternate treatment or otherwise to take preventative steps to protect B. in the event of a reoccurrence, precisely because she denied there was any problem. Mother was unable to provide regular care for B. while she was hospitalized since a seven-year-old child could not safely live alone during those periods, which lasted up to two weeks each.

Because mother refused to acknowledge she faced any mental health challenges, there is no evidence before us that mother made or would make arrangements for B.’s care if she suffered another episode. In fact, she cut her mother off from contact with B. and she physically attacked father when he tried to arrange care for B. after mother’s initial hospital discharge.

Mother is correct that ““harm may not be presumed from the mere fact of mental illness of a parent.”” (*In re James R.* (2009) 176 Cal.App.4th 129, 136, abrogated on other grounds in *In re R.T.* (2017) 3 Cal.5th 622, 628, 637, fn. 6 (*James R.*); *In re Matthew S.* (1996) 41 Cal.App.4th 1311, 1318.) Jurisdiction must be overturned when “[a]ny causal link between [a parent’s] mental state and future harm to the minors was

speculative.” (*James R.*, at p. 136; accord, e.g., *In Daisy H.* (2011) 192 Cal.App.4th 713, 718 (*Daisy H.*).)

But to review the facts in *James R.* and similar cases cited by mother is to distinguish them. In *James R.*, for example, the court lacked jurisdiction where mother had a one-time adverse reaction to taking eight ibuprofen with beer. No evidence demonstrated any risk of harm to her child based on her brief stay in a hospital for medical, rather than mental health, care. (*James R.*, *supra*, 176 Cal.App.4th at pp. 132, 136.) In *Daisy H.*, the only evidence of mental illness was the mother’s unsupported allegation that the father was ““paranoid”” and ““hallucina[tory].”” (192 Cal.App.4th at p. 718.) No evidence linked the father’s alleged mental disturbances to physical harm or risk of harm to the children. (*Ibid.*)

Here, in contrast, the court’s jurisdictional finding does not stem from one incident or unsupported testimony. Rather, the court relied on mother’s extended history of mental illness and increasingly deteriorating condition. Mother covertly avoided taking her medication, then declared she would not take any medication but refused to seek alternatives and refused to submit to or acknowledge the need for treatment of any kind. She seemed to have no recollection of events occurring during psychiatric episodes, demonstrating a detachment from reality unsafe for herself or her child. She also exhibited physical aggression toward family members, further illustrating a potential risk of harm to B. through attacks on those who would care for him in mother’s absence or incapacity.

In *James R.*, in marked contrast, the mother began participating in services before the social services agency intervened, including by attending outpatient rehabilitation classes, Alcoholics Anonymous meetings, individual counseling, and an online parenting course. (*James R.*, *supra*, 176 Cal.App.4th at p. 132.) While the mother in *James R.* acknowledged she had contemplated suicide in the past, there was no evidence she suffered suicidal ideation after her three children were born. (*Id.* at p. 136.)

In this case, despite increasing intervention by mental health professionals, and a formal diagnosis of a bipolar disorder with psychosis, mother steadfastly refused to recognize she had any problems. “One cannot correct a problem one fails to acknowledge.” (*In re Gabriel K.* (2012) 203 Cal.App.4th 188, 197.)

As the social worker here noted, mother’s lack of insight may be an unfortunate feature of her mental condition. But all is not lost given her intelligence, as evidenced by her academic achievement including a nursing degree, and her devotion to B. Jurisdiction marks a critical, but still early stage of protective dependency. The juvenile court’s order requiring a section 730 evaluation with a trained psychiatric professional, which mother does not challenge apart from her challenge to jurisdiction generally, affords her the opportunity to take the steps necessary to ensure B.’s safety and well-being.

That said, there is no question in the record that mother faces serious mental health challenges which she must address with corresponding determination. The juvenile court was not obligated to credit mother’s simple, uncritical self-evaluation or the purported endorsement of her view by others when she failed to obtain a psychiatric evaluation. No formal, expert mental health evaluation or testimony is necessary for juvenile court dependency jurisdiction. (*Laurie S. v. Superior Court* (1994) 26 Cal.App.4th 195, 202 (*Laurie S.*)) Moreover, nothing rebutted the in-patient doctor’s recent diagnosis of mother’s serious mental health condition. In contrast, in *James R.*, the mother’s psychotherapist testified unconditionally at the jurisdiction hearing that the mother did not pose a risk to her children and was not a danger to herself or others. (176 Cal.App.4th at p. 133.) Mother’s repeated involuntary hospitalizations under section 5150 stand in sharp relief here.<sup>2</sup>

---

<sup>2</sup> Section 5150 allows specified mental health professionals and peace officers to take a person into custody if the officer or mental health professional has probable cause to believe the person is a danger to herself or others. Custody under

In any event, the dispositive issue is whether the child is at risk of harm in the parent's care, which can be assessed with ordinary experience. (*Laurie S.*, *supra*, 26 Cal.App.4th at p. 202.) Here, though she refused to take their counsel, everyone who dealt with mother first-hand expressed increasing concern for B., from father and maternal grandmother, to the neighbor, the social worker, and the officers who found B. cowering in his underwear in the face of her incoherent shouts. The juvenile court was entitled to credit the officers' testimony that mother's behavior made B. fearful of her, rather than her contrary claim.

Mother's attempt to lay blame on father similarly fails. As she challenges jurisdiction based on allegations of domestic violence, she emphasizes that she and father no longer reside in the same household, so the risk of future clashes is diminished. But in the next breath, mother suggests father can step in to care for B., as he did in November and December 2017 when mother was hospitalized, if she suffers another episode. This despite the fact that mother asserts another incident is impossible because she denies the mental health challenges she faces. Mother apparently views mental illness as a weakness rather than a reality to be confronted and surmounted.

Mother emphasizes that her visits with B., as monitored by maternal grandmother, were exemplary during the period leading up to the jurisdictional hearing, demonstrating mother's improvement. But the juvenile court reasonably could take into consideration those monitored visits occurred under court order. Nothing demonstrated mother had the insight to independently agree to the arrangement. "'The purpose of dependency proceedings is to prevent risk, not ignore it.'" (*Jonathan L. v. Superior Court* (2008) 165 Cal.App.4th 1074, 1104.)

---

section 5150 must be in a designated mental health facility and may not exceed 72 hours. The person who is in custody must be assessed by the facility prior to admission and, if admitted, evaluated under the direction of a mental health professional. (§§ 5151, 5152.)

As noted, father does not challenge the juvenile court's jurisdictional or dispositional orders; to the contrary, like B.'s trial counsel, he supported SSA's case plan, including the social worker's recommendations for juvenile court jurisdiction and a 730 evaluation. Under these circumstances, there is no basis for mother to interject father as a reason to overturn jurisdiction. Substantial evidence supports the juvenile court's jurisdictional finding.

B. *The Evidence Also Supports the Juvenile Court's Dispositional Order*

The same evidence discussed above supports the juvenile court's dispositional order removing B. from mother's custody. Under section 361, subdivision (c)(1), a dependent child may not be taken from the physical custody of the parents with whom the child resides at the time the petition was initiated unless the juvenile court finds by clear and convincing evidence that "[t]here is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parent's . . . physical custody." (§ 361, subd. (c)(1).)

"The clear and convincing standard was adopted to guide the trial court; it is not a standard for appellate review. [Citation.] The substantial evidence rule applies no matter what the standard of proof at trial. 'Thus, on appeal . . . "the clear and convincing test disappears . . . [and] the usual rule of conflicting evidence is applied, giving full effect to the respondent's evidence, however slight, and disregarding the appellant's evidence, however strong.'"" (*In re E.B.* (2010) 184 Cal.App.4th 568, 578.)

"A removal order is proper if it is based on proof of (1) parental inability to provide proper care for the minor and (2) potential detriment to the minor if he or she remains with the parent." (*In re T.W.* (2013) 214 Cal.App.4th 1154, 1163.) "The jurisdictional findings are prima facie evidence that the child cannot safely remain in the

home. [Citation.] The parent need not be dangerous and the child need not have been actually harmed for removal to be appropriate. The focus of the statute is on averting harm to the child. [Citations.] In this regard, the court may consider the parent's past conduct as well as present circumstances." (*In re Cole C.* (2009) 174 Cal.App.4th 900, 917.) A parent's refusal or inability to cooperate with SSA is evidence that removal was necessary. (*In re Maria R.* (2010) 185 Cal.App.4th 48, 71, disapproved on other grounds in *In re I.J.*, *supra*, 56 Cal.4th at p. 781.)

Here, the juvenile court did not remove B. from parental custody altogether. Pursuant to section 361, subdivision (c)(1)(B), it selected the less drastic measure of allowing father to retain custody in the family home. Mother again interposes protective custody with father as a purported obstacle to removing B. from her custody. There is no merit to the claim given that sole placement with father was necessitated by mother's refusal or inability to address her history of demonstrated mental illness.

### **DISPOSITION**

We affirm the juvenile court's jurisdictional and dispositional orders.

GOETHALS, J.

WE CONCUR:

O'LEARY, P. J.

IKOLA, J.